

(Species 2). The Examiner required the applicant to elect a single disclosed species for prosecution on the merits. The applicant elects Species 1, claims 1-44.

The Examiner further concluded that if Species 1 were elected, a restriction to one of the following inventions:

- I. Claims 1-10 drawn to an apparatus for preparing a fluid sample (class 442, subclass 100);
- II. Claims 11-13 drawn to a method of preparing an aliquot (class 442, subclass 180);
- III. Claims 14-20 drawn to a sample aliquot pipette tip (class 442, subclass 100);
- IV. Claims 21-27 drawn to a tip aliquot support (class 442, subclass 100);
- V. Claims 28-39 drawn to a system for preparing an aliquot (class 422, subclass 63); and
- VI. Claims 40-43 drawn to methods of preparing an aliquot (class 436, subclass 48),

would be required. The applicant elects Group I (claims 1-10 with traverse.

Applicant's Traversal with Respect to the Claims of Groups III and IV

The Examiner did note that Groups I, III and IV would be examined in the same application. It is believed that these Groups of claims are not distinct, as exemplified by MPEP § 806.05(c) II, since the Examiner has provided no evidence that the combination AB_{sp} is patentable without the details of B_{sp}. Accordingly, the applicant requests that the claims of Groups III and IV (claims 14-27) be examined with those of elected Group I.

Applicant's Traversal with Respect to the Claims of Group II

Further, the claims of Group II (claims 11-13) should also be examined with the claims of Group I. Specifically, the claims of Group II are a process of using the product claimed in Group I. Since the Examiner has not shown that the process of using as claimed can be practiced with another materially different product, nor has the Examiner shown that the product as claimed can be used in a materially different process, the inventions of Groups I and II are not distinct. Indeed, independent claim 11 of Group II has a detailed preamble indicating that the process is for use with the product claimed in Group I. Accordingly, the applicant requests that the claims of Group II (claims 11-13) be examined with those of elected Group I.


CONCLUSIONS

In view of the foregoing, the applicant respectfully submits that the Examiner should examine claims 11-13, 14-20, and 21-27 of non-elected Groups II,

III, and IV, respectively, along with claims 1-10 of
elected Group I.

Respectfully submitted,

September 13, 2001


John C. Pokotylo, Attorney
Reg. No. 36,242
Customer No. 26479
(732) 335-1222

STRAUB & POKOTYLO
1 Bethany Road
Suite 83
Hazlet, NJ 07730

RECEIVED
SEP 19 2001
TC 1700

CERTIFICATE OF MAILING under 37 C.F.R. 1.8(a)

I hereby certify that this correspondence is
being deposited on **September 13, 2001** with the United
States Postal Service as first class mail, with sufficient
postage, in an envelope addressed to the Assistant
Commissioner for Patents, Washington, D.C. 20231.


John C. Pokotylo

Reg. No. 36,242